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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,192	11/07/2001	Sachiko Nishiura	Q67062	4888

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037-3202

EXAMINER

SHEPARD, JUSTIN E

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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07/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/986,192

Applicant(s)

NISHIURA, SACHIKO

Examiner

Justin E. Shepard

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 5/30/07 have been fully considered but they are not persuasive.

Page 2, Paragraph beginning with "Addressing":

The applicant argues that Shimoji discloses a hierarchical table, but not a number of hierarchical files to be retained that are determined in advance. Referring to figure 29 of Shimoji as the applicant does, this figure does show a management table as the applicant suggests. Column 55 (lines 30-40) discusses figure 29 in more detail, and teaches that this table is stored for each program being retained. Referring back to figure 29, it shows flags for "Storage Completion", "Expiration", and whether or not the individual files making up the programs have been stored ("Storage Flag"). The examiner interprets this as meeting the above limitation.

Page 2, last paragraph:

The applicant argues that Shimoji does not disclose retaining a start file, and acquiring automatically said plurality of files linked by anchors ranging from said start file to said hierarchical number of files by analyzing said start file. Figure 22 of Shimoji teaches that the system checks whether or not the program is to be stored (part S1202). If this instruction is present (column 50, lines 23-29) the flow chart continues onto step S1240 wherein the Stored Data Management Table is stored (column 55, lines 30-40). The receiver continues to download the rest of the files relating to the interactive

broadcast (column 47, lines 50-54) until all the files are downloaded (figure 29). The examiner interprets this as meeting the above limitation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 5, and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimoji.

Referring to claim 1, Shimoji discloses a digital broadcast receiving method for receiving broadcast data in which a plurality of files are broadcast with a plurality of elementary streams for audio and video output, the method comprising:

determining in advance a hierarchical number of said plurality of files to be retained (column 40, lines 25-28; column 55, lines 36-40; figure 8);

initiating reception of said plurality of files (column 47, lines 38-40);

acquiring a start file, which is a first file of said plurality of files, from a determined elementary stream and retaining said start file (column 47, lines 50-54);

acquiring automatically and retaining said plurality of files linked by anchors within each of said plurality of files ranging from said start file to said hierarchical number of files by analyzing said start file (figure 8; column 47, lines 59-62); and using said retained files to create video and audio output (figure 10; figure 21).

Claims 2, 5, and 8 are rejected on the same grounds as claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 4, 6, 7, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimoji in view of Brotz.

Referring to claim 3, Shimoji does not disclose a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received.

In an analogous art, Brotz teaches a digital broadcast receiving method according to claim 1, wherein all said elementary streams with which said files that were received in advance and retained are being broadcast are constantly supervised, and wherein a trigger for broadcasting that is to be broadcast is received (column 11, lines

5-9; Note: in the specification page 13, line 13; an example is given where a trigger is something identifying that there is a "version-up of the file," which is what the reference teaches).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 6 and 9 are rejected on the same grounds as claim 3.

Referring to claim 4, Shimoji does not disclose a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained.

In an analogous art, Brotz teaches a digital broadcast receiving method according to claim 3, wherein contents that said trigger for broadcasting indicates is caused to be reflected on said files that were acquired in advance and retained (column 11, lines 5-9; Note: reflecting the trigger is interpreted as applying it to the given file).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claims 7 and 10 are rejected on the same grounds as claim 4.

Referring to claim 11, Shimoji does not disclose a digital broadcast receiving apparatus according to claim 3, wherein the trigger for broadcasting comprises at least one of a version-up message, an event message and a beginning of emergent broadcasting message.

In an analogous art, Brotz teaches a digital broadcast receiving apparatus according to claim 3, wherein the trigger for broadcasting comprises at least one of a version-up message (column 11, lines 5-9), an event message and a beginning of emergent broadcasting message.

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the method of updating out of date files, as taught by Brotz, to the apparatus disclosed by Shimoji. The motivation would have been to keep from having an out of date version of the program stored for the user (Brotz: column 11, lines 5-9).

Claim 12 is rejected on the same grounds as claim 11.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS


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